



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VEROBLUE FARMS USA INC,

Plaintiff,

- against -

CANACCORD GENUITY LLC,

Defendant.
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20-CV-4394 (PGG) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This Order resolves the issues raised by the parties in Dkt. 336 (with 338, 341, 342) and Dkt. 337 (with 339):

Discovery: Defendant Canaccord has requested a stay of discovery pending resolution of its soon-to-be-filed motion to dismiss. At least one or more of Canaccord's bases for dismissal appear to have merit. At the same time, Canaccord successfully opposed enforcement of the subpoena on it as a third-party to the Texas action on the basis that Canaccord is a party to the instant action. It would be inequitable for Canaccord to now leverage that success by putting off discovery here on the grounds that the complaint against it should be dismissed. In light of these and other considerations (claimed burdens, prejudice, et al.), the Court orders as follows. Canaccord shall have the choice of which of the two alternatives proposed by VBF it prefers to do: either (1) Proceed with party discovery in this action (along with staying non-party discovery pending determination of the motion to dismiss, maintaining the existing scheduling order, and cooperating with Plaintiff to avoid duplicative discovery in the Texas action), or (2) Stay all discovery in the instant action pending determination of the motion to dismiss,

while permitting VBF (and the Founders) to take non-party discovery of Canaccord in the Texas action. Canaccord shall advise VBF and the Court of its choice in writing by October 22, 2020.

Motion to Dismiss Briefing: Canaccord's response to the Fourth Amended Complaint ("FAC") shall proceed on the following schedule.

- **October 30, 2020:** Canaccord's response or motion to dismiss;
- **November 20, 2020:** VBF's opposition.
- **December 4, 2020:** Canaccord's reply.

Motion for Sanctions: Canaccord and VBF disagree about the schedule for briefing Canaccord's motion for sanctions in connection with VBF's filing of the Third Amended Complaint ("TAC"), which was served on VBF on August 21, 2020. The Court finds that any motion for sanctions should be considered in tandem with Canaccord's motion to dismiss the FAC. Accordingly, Canaccord's sanctions motion shall be briefed on the same schedule as the briefing on dismissal of the FAC.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: October 19, 2020
 New York, New York

Copies transmitted to counsel of record via-ECF.